

REMARKS/ARGUMENTS

Claims 1, 8 and 15 have been amended. Claims 23-26 are newly added. Claims 1-26 remain pending in the present application. Applicant reserves the right to pursue the original claims and other claims in this application and in other applications.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned “Version with markings to show changes made.”

Claims 1-3, 6, 8-13, 15 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ostrowsky (U.S. Patent No. 3,853,236). Applicant respectfully traverses the rejection and requests reconsideration.

Amended claims 1 recites a safety closure comprising and outer cap, inner cap, and “recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being applied to said outer cap, and when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by said inclined walls of said recesses allowing said inner cap to be rotated and removed from the container, wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.”

The device of Ostrowsky, discloses a safety closure including “two cap members with interengaging means and with the top wall of the outer cap serving as a two-way spring member which is axially deflectable to permit the interengagement of the interengaging means so that the two caps can be rotated simultaneously to effect an

unscrewing of the inner closure with respect to the container...” (column 2 lines 4-10).

The two-way spring member of Ostrowsky is crucial to the closure’s operation, “[a]ll of the foregoing functions are accomplished by the relationship of the interengaging teeth and the axial deflection of the top wall of the outer cap which serves as a two-way spring member.” (Emphasis added).

While Ostrowsky does appear to disclose a safety closure using recesses and lugs, Ostrowsky does not disclose a safety closure where “a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.” Although the Office Action notes that there is inherently some degree of freedom in the device of Ostrowsky, the vertical movement of the outer cap of this device is limited by the interaction of two-way spring member formed by central stud 64 and axial opening 66 as illustrated in figure 7.

In addition, the axial deflection of the outer cap of Ostrowsky is crucial to the operation of the safety closure. (column 2 lines 29-33). Clearly, the invention defined by claim 1 is not anticipated (or rendered obvious) by Ostrowsky. Accordingly, the rejection of claim 1 under 35 U.S.C. § 102(b) should be withdrawn and the claim allowed.

Amended claim 8 recites a safety closure comprising an outer cap, inner cap, and “recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is simultaneously applied to said outer cap forcing said lugs to be engaged by said inclined walls of said recesses, wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.”

The invention of claim 8 is not anticipated by Ostrowsky for the same reasons mentioned above with respect to claim 1. Accordingly, the rejection of claim 8 should be withdrawn and the claim allowed.

Amended claim 15 recites a safety closure comprising an outer cap, inner cap, and “lugs and recesses are shaped such that said lugs are engaged by said vertical walls when said outer cap is turned in a closure application direction, said lugs slide up said inclined walls when said outer cap is turned in a closure opening direction and a force urging said outer cap towards said inner cap is not being applied to the outer cap, and said lugs are engaged by said inclined walls when said outer cap is turned in the closure opening direction while the force is being applied to said outer cap, wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.”

The invention of claim 15 is not anticipated by Ostrowsky for the same reasons mentioned above with respect to claim 1. Accordingly, the rejection of claim 15 should be withdrawn and the claim allowed.

Claims 2-3 depend from claim 1 and are allowable at least for the reasons mentioned above with respect to claim 1. Claims 9-13 depend from claim 8 and are allowable at least for the reasons mentioned above with respect to claim 8. Claim 16 depends from claim 15 and is allowable at least for the reasons mentioned above with respect to claim 15. Accordingly, the rejection of claims 2-3, 9-13 and 16 under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed.

Claims 4, 5 and 17-19 stand rejected under 35 U.S.C. § 103(a) over Ostrowsky. Applicant respectfully traverses the rejection and requests reconsideration.

Claims 4 and 5 depend from claim 1 and are allowable at least for the reasons mentioned above with respect to claim 1. Claims 17-19 depend from claim 15 and are

allowable at least for the reasons mentioned above with respect to claim 15. Accordingly, the rejection of claims 4, 5, and 17-19 under U.S.C. § 103(a) should be withdrawn and the claims allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) over Ostrowsky in view of Friedenthal (U.S. Patent No. 5,147,053). Applicant respectfully traverses the rejection and requests reconsideration.

As mentioned above, the invention of claims 1 and 8 are not rendered obvious by Ostrowsky. The device of Friedenthal discloses “a container which includes a body with a mouth, a closure which is engageable with the body to close the mouth, at least one retaining member which retains the closure from being disengaged from the body, at least one deformable formation and at least one deflecting member, the closure being movable to a limited extent towards the body whereby the deflecting member deflects the deformable formation to form a pathway along which the retaining member can be moved to permit disengagement of the closure from the body.” (column 1 lines 19-29).

The device of Friedenthal fails to teach or suggest the invention of claim 1 or 8. Thus, even if one accepts *arguendo* that Ostrowsky may be combined with Friedenthal, the proposed combination still does not teach or suggest the inventions as claimed. Accordingly, the combination of Ostrowsky and Friedenthal does not render claim 1 or 8 obvious. Claim 7 depends from claim 1 and is allowable at least for the reasons mentioned above with respect to claim 1. Claim 14 depends from claim 8 and is allowable at least for the reasons mentioned above with respect to claim 8. Accordingly, the rejection of claims 7 and 14 under U.S.C. § 103(a) should be withdrawn and the claims allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) over Ostrowsky in view of Buono (U.S. Patent No. 5,197,616). Applicant respectfully traverses the rejection and requests reconsideration.

As mentioned above, the invention of claim 15 is not rendered obvious by

Ostrowsky. Buono discloses a child-resistant closure with a means for indicating by an audible signal the closure state of the container, and includes coaxial nesting inner, middle and outer caps. The device of Buono fails to teach or suggest the invention of claim 15. Thus, even if one accepts *arguendo* that Ostrowsky may be combined with Buono, the proposed combination still does not teach or suggest the inventions as claimed. Accordingly, the combination of Ostrowsky and Buono does not render claim 15 obvious. Claim 20 depends from claim 15 and is allowable at least for the reasons mentioned above with respect to claim 15. Accordingly, the rejection of claim 20 under U.S.C. § 103(a) should be withdrawn and the claim allowed.

Newly added claim 23 recites a safety closure “wherein when said force urging said outer cap towards said inner cap is applied, an alignment of said first top wall with respect to said second top wall remains constant, except for any rotational motion, and except for a uniform axial displacement of said first top wall with respect to said second top wall.”

The device of Ostrowsky teaches away from such a limitation since the device of Ostrowsky includes “two cap members with interengaging means and with the top wall of the outer cap serving as a two-way spring member which is axially deflectable to permit the interengagement of the interengaging means so that the two caps can be rotated simultaneously to effect an unscrewing of the inner closure with respect to the container...” Accordingly, claim 23 is allowable over Ostrowsky.

Newly added claim 24 depends from claim 23 and is allowable for at least the reasons mentioned above with respect to claim 23.

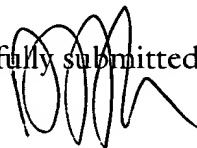
Newly added claim 25 recites a safety closure “wherein when said urging force is applied, said first top wall remains substantially undeformed.” Ostrowsky’s outer cap must be flexible to operate correctly. Claim 24 is allowable over Ostrowsky at least for the reasons mentioned above with respect to claim 23.

Newly added claim 26 recites a safety closure “wherein when said lugs and recess are engaged in a closure opening direction, said lugs are not urged from said recesses due to a relaxation of a deformed member.” The device of Ostrowsky teaches away from such a limitation because the device of Ostrowsky teaches that after the release of manual pressure, the outer cap will assume its normal elevated or raised position, the top-wall of the outer cap flexes upwardly. (column 4 lines 40-49). Consequently, the flexibility of Ostrowsky’s outer cap urges the lugs from the recesses of the inner cap upon the release of manual pressure, which is essential to the operation of the device. Accordingly, claim 25 is allowable over Ostrowsky.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Dated: June 13, 2003

Respectfully submitted,

By  _____

Donald A. Gregory

Registration No.: 28,954

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant

Version With Markings to Show Changes Made

1. (Five times amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed about said second top wall and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses comprise an inclined wall that is inclined with respect to a horizontal wall of said recess,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction causing said closure to be applied to a container, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being applied to said outer cap, and when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by said inclined walls of said recesses allowing said inner cap to be rotated and removed from the container,

wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.

8. (Five times amended) A child resistant safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed about said first top wall and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are formed on an outer surface of said second top wall, each of said recesses comprise an inclined wall that is inclined with respect to a horizontal wall of said recess,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is simultaneously applied to said outer cap forcing said lugs to be engaged by said inclined walls of said recesses,

wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.

15. (Five times amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed about said first top wall and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed about said second top wall and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses

comprise a vertical wall and an inclined wall, each inclined wall being inclined with respect to a horizontal wall of its respective recess,

said lugs and recesses are shaped such that said lugs are engaged by said vertical walls when said outer cap is turned in a closure application direction, said lugs slide up said inclined walls when said outer cap is turned in a closure opening direction and a force urging said outer cap towards said inner cap is not being applied to the outer cap, and said lugs are engaged by said inclined walls when said outer cap is turned in the closure opening direction while the force is being applied to said outer cap,

wherein a contour of said inner surface of said first top wall within said lugs and a contour of said second top wall within said recesses do not substantially interfere with each other until engagement between said lugs and recesses.